

Message

From: Wester, Barbara [wester.barbara@epa.gov]
Sent: 12/10/2019 2:09:00 PM
To: Compton, Mark [compton.mark@epa.gov]; McKim, Krista [mckim.krista@epa.gov]; Melodia, Craig [melodia.craig@epa.gov]; Ackerman, Mark [ackerman.mark@epa.gov]; Gluckman, Matthew [gluckman.matthew@epa.gov]; Jann, Stephen [jann.stephen@epa.gov]
CC: Beese, Jennifer [beese.jennifer@epa.gov]
Subject: RE: Minnesota Court Reverses Minntac NPDES Permit Renewal - FYI

Ex. 5 AC/AWP/DP

In this case, there is nothing in the MPCA's order granting the permit or the permit itself to indicate that the MPCA engaged in any actual analysis of whether the Sand River SCRS has completely eliminated surface seepage on the east side of the basin, such that WQBELs are not required in the NPDES permit. Rather, it seems to have simply ignored or overlooked evidence in the record that could suggest a contrary conclusion. On this record, we can only conclude that the MPCA has failed to take the requisite "hard look" at the issue of whether WQBELs are required in the NPDES permit, and, accordingly, we must intervene. *Reserve Mining*, 256 N.W.2d at 825 (quotation omitted). We reverse and remand to the MPCA for further development of the record as warranted, for the MPCA to make substantiated findings regarding the effectiveness of the Sand River SCRS, and for the MPCA to redetermine, on those substantiated findings, whether WQBELs are required in the NPDES permit. *See Minn. Ctr. for Env'tl. Advocacy v. Comm'r of Minn. Pollution Control Agency*, 696 N.W.2d 95, 105 (Minn. App. 2005) (reversing and remanding based on agency's failure to give more than conclusory consideration to project alternative).¹⁴

From: Compton, Mark <compton.mark@epa.gov>
Sent: Tuesday, December 10, 2019 8:00 AM
To: McKim, Krista <mckim.krista@epa.gov>; Melodia, Craig <melodia.craig@epa.gov>; Wester, Barbara <wester.barbara@epa.gov>; Ackerman, Mark <ackerman.mark@epa.gov>; Gluckman, Matthew <gluckman.matthew@epa.gov>; Jann, Stephen <jann.stephen@epa.gov>
Cc: Beese, Jennifer <beese.jennifer@epa.gov>
Subject: RE: Minnesota Court Reverses Minntac NPDES Permit Renewal - FYI

Good morning,

The decision.

Thank you,
Mark

From: McKim, Krista <mckim.krista@epa.gov>
Sent: Tuesday, December 10, 2019 7:54 AM
To: Melodia, Craig <melodia.craig@epa.gov>; Wester, Barbara <wester.barbara@epa.gov>; Ackerman, Mark <ackerman.mark@epa.gov>; Gluckman, Matthew <gluckman.matthew@epa.gov>; Jann, Stephen <jann.stephen@epa.gov>; Compton, Mark <compton.mark@epa.gov>
Subject: FW: Minnesota Court Reverses Minntac NPDES Permit Renewal - FYI

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From: Beese, Jennifer <beese.jennifer@epa.gov>
Sent: Tuesday, December 10, 2019 7:52 AM
To: Smith, Molly <Smith.Molly@epa.gov>; Maraldo, Dean <Maraldo.Dean@epa.gov>; Kuefler, Patrick <kuefler.patrick@epa.gov>; Bahr, Ryan <bahr.ryan@epa.gov>
Cc: McKim, Krista <mckim.krista@epa.gov>
Subject: Minnesota Court Reverses Minntac NPDES Permit Renewal - FYI

<https://www.twincities.com/2019/12/09/court-rejects-minnesotas-renewal-of-u-s-steels-wastewater-permit-for-minntac-mine/>

<http://www.timberjay.com/stories/court-reverses-minntac-water-discharge-permit,15772>

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